

110TH CONGRESS
2D SESSION

S. 3019

To amend the Energy Policy Act of 2005 to promote oil shale and tar sands leasing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2008

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Energy Policy Act of 2005 to promote oil shale and tar sands leasing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Oil Shale and Tar
5 Sands Leasing Act of 2008”.

6 **SEC. 2. OIL SHALE AND TAR SANDS LEASING.**

7 Section 369 of the Energy Policy Act of 2005 (42
8 U.S.C. 15927) is amended—

9 (1) in subsection (d)—

10 (A) in paragraph (1)—

1 (i) by striking “Not later than 18
 2 months after the date of enactment of this
 3 Act, in” and inserting the following:

4 “(A) IN GENERAL.—Not later than 1 year
 5 after the date of enactment of the Oil Shale
 6 and Tar Sands Leasing Act of 2008, in”; and

7 (ii) by adding at the end the fol-
 8 lowing:

9 “(B) ADDITIONAL COMMENT PERIOD.—
 10 The Governors of each of the States of Colo-
 11 rado, Utah, and Wyoming shall be afforded an
 12 additional 90 days beyond the public comment
 13 period during which to comment on the final
 14 programmatic environmental impact statement
 15 prior to issuance of a record of decision by the
 16 Secretary.”; and

17 (B) in paragraph (2)—

18 (i) in the heading by striking “(2)
 19 FINAL REGULATION.—Not” and inserting
 20 the following:

21 “(2) PROPOSED REGULATION.—

22 “(A) IN GENERAL.—Not”;

23 (ii) by striking “6 months” and in-
 24 serting “1 year”;

1 (iii) by striking “final” and inserting
2 “proposed”; and

3 (iv) by adding at the end the fol-
4 lowing:

5 “(B) PUBLIC COMMENT.—The proposed
6 regulations under this paragraph shall be open
7 to public comment for not less than 120 days.”;

8 (2) by redesignating subsections (e) through (s)
9 as subsections (g) through (u), respectively;

10 (3) by inserting after subsection (d) the fol-
11 lowing:

12 “(e) ANALYSIS OF COMMERCIAL LEASING PRO-
13 GRAM.—

14 “(1) IN GENERAL.—Not later than 18 months
15 after the date of enactment of the Oil Shale and Tar
16 Sands Leasing Act of 2008, and concurrent with the
17 development of the proposed regulations as required
18 by this section, the Secretary shall, in cooperation
19 with the Secretary of Energy and the Administrator
20 of the Environmental Protection Agency, prepare
21 and submit to Congress a report (including rec-
22 ommendations) that analyzes the elements of a com-
23 mercial leasing program for oil shale and tar sands,
24 taking into account any findings from the research

1 and development program conducted under sub-
2 section (c).

3 “(2) INCLUSIONS.—The report under para-
4 graph (1) shall include—

5 “(A) an analysis of—

6 “(i) technologies and research and de-
7 velopment programs for the production of
8 oil and other materials from oil shale and
9 tar sands in existence on the date on which
10 the report is prepared;

11 “(ii) whether leases under the pro-
12 gram should be issued on a competitive
13 basis;

14 “(iii) the term of the leases;

15 “(iv) the maximum size of the leases;

16 “(v) the minimum size of the leases;

17 “(vi) the use and distribution of bonus
18 bid payments;

19 “(vii) the royalty rate to be applied,
20 including whether a sliding scale royalty
21 rate should be used;

22 “(viii) the maximum number of leases
23 and maximum acreage to be leased under
24 the leasing program to a single lessee or
25 an individual;

1 “(ix) any infrastructure required to
2 support oil shale and tar sands develop-
3 ment in industry and communities;

4 “(x) any conditions that should be im-
5 posed in leases to minimize the impacts
6 on—

7 “(I) air quality and conditions,
8 including greenhouse gas emissions;

9 “(II) water quality and quantity;

10 “(III) human health;

11 “(IV) local communities; and

12 “(V) wildlife habitat;

13 “(xi) policies that are necessary to
14 mitigate the adverse impacts of commercial
15 oil shale and tar sands exploration, devel-
16 opment, and production activities on wild-
17 life and other environmental resources that
18 may be affected by a commercial oil shale
19 and tar sands leasing and development
20 program;

21 “(xii) reclamation bonding require-
22 ments that should be imposed to guarantee
23 the reclamation of areas disturbed by oil
24 shale and tar sands exploration, develop-
25 ment, and production activities; and

1 “(xiii) appropriate diligent develop-
 2 ment and minimum production require-
 3 ments;

4 “(B) an identification of events that should
 5 serve as a precursor to commercial leasing, in-
 6 cluding—

7 “(i) the development of environ-
 8 mentally and commercially viable tech-
 9 nologies; and

10 “(ii) the completion of land use plan-
 11 ning and environmental reviews; and

12 “(C) an analysis, developed in conjunction
 13 with the appropriate State water resources
 14 agencies, of the demand for, and availability of,
 15 water with respect to the development of oil
 16 shale and tar sands, including the best available
 17 estimates of the impacts of population growth
 18 and climate change on availability and timing of
 19 freshwater throughout the Colorado River
 20 Basin.

21 “(3) PUBLIC PARTICIPATION.—In preparing the
 22 report under this subsection, the Secretary shall pro-
 23 vide notice to, and solicit comment from—

24 “(A) the public;

25 “(B) representatives of local government;

1 “(C) representatives of industry; and

2 “(D) other interested parties.

3 “(4) PARTICIPATION BY CERTAIN STATES.—In
4 preparing the report under this subsection, the Sec-
5 retary shall—

6 “(A) provide timely notice to, and solicit
7 comment from, the Governors of each of the
8 States of Colorado, Utah, and Wyoming;

9 “(B) allow each of the Governors of Colo-
10 rado, Utah, and Wyoming a period of not less
11 than 90 days to provide comments on the re-
12 port; and

13 “(C) incorporate into the report submitted
14 to Congress under paragraph (1) any response
15 of the Secretary to those comments.

16 “(5) INCORPORATION OF FINDINGS BY NAS.—
17 In preparing the report required by paragraph (1),
18 the Secretary shall refer to and use information and
19 recommendations made by the National Academy of
20 Sciences in the report described in subsection (f).

21 “(f) NATIONAL ACADEMY OF SCIENCES REPORT AND
22 RECOMMENDATIONS.—

23 “(1) IN GENERAL.—Not later than 90 days
24 after the date of enactment of the Oil Shale and Tar
25 Sands Leasing Act of 2008, the Secretary of the In-

1 terior, in consultation with the Secretary of Energy
2 and the Administrator of the Environmental Protec-
3 tion Agency, shall enter into an arrangement with
4 the National Academy of Sciences under which the
5 Academy shall conduct a study to assess the envi-
6 ronmental and commercial framework for oil shale
7 and tar sands development in the United States.

8 “(2) MATTERS TO BE ADDRESSED.—The study
9 shall address—

10 “(A) the importance of oil shale and tar
11 sands production to meet the energy needs of
12 the United States;

13 “(B) the status of oil shale and tar sands
14 research and development efforts;

15 “(C) the likely positive and negative impli-
16 cations of the various technologies for the com-
17 mercial production of oil from oil shale and tar
18 sands resources, including the cumulative ef-
19 fects of other energy infrastructure necessary
20 for such production, on—

21 “(i) water resources (including surface
22 water and groundwater), including the
23 quantity and quality of water;

24 “(ii) air quality, including greenhouse
25 gas emissions;

1 “(iii) human health;

2 “(iv) local communities;

3 “(v) wildlife habitat; and

4 “(vi) regional energy needs;

5 “(D) the timeframe for viable large-scale
6 commercial oil shale and tar sands production
7 and events that should serve as a precursor to
8 commercial leasing, such as development of
9 commercially viable and environmentally safe
10 technologies;

11 “(E) the feasibility and advisability of ini-
12 tiating a pilot program for commercial leasing;

13 “(F) energy sources needed for extraction
14 technologies and the resulting energy balance
15 and associated costs;

16 “(G) potential greenhouse gas emissions
17 for each technology and sequestration opportu-
18 nities;

19 “(H) potential social and environmental
20 impacts of commercial oil shale and tar sands
21 production, including groundwater and surface
22 water usage;

23 “(I) workforce capacity requirements asso-
24 ciated with large-scale commercial development;
25 and

1 “(J) appropriate terms and conditions for
2 commercial oil shale leases on public land, in-
3 cluding royalty rates, diligent development re-
4 quirements, environmental conditions, and
5 length of the lease term.

6 “(3) RECOMMENDATIONS.—The study shall—

7 “(A) analyze the viability of, and time-
8 frame for, environmentally safe commercial oil
9 shale and tar sands development; and

10 “(B) make recommendations as to
11 changes, if any, to Federal law (including regu-
12 lations) needed to facilitate the commercial pro-
13 duction of oil shale and tar sands resources in
14 a manner that minimizes adverse social and en-
15 vironmental impacts and ensures a fair return
16 to the public.

17 “(4) COMPLETION OF STUDY.—The National
18 Academy of Sciences shall—

19 “(A) not later than 18 months after the
20 date of enactment of the Oil Shale and Tar
21 Sands Leasing Act of 2008, submit the findings
22 and recommendations of the study to the Sec-
23 retary of the Interior, the Secretary of Energy,
24 and the Administrator of the Environmental
25 Protection Agency; and

1 “(B) on completion of the study, make the
2 results of the study available to the public.

3 “(5) REPORT TO CONGRESS.—Not later than
4 180 days after receiving the results of the study, the
5 Secretary of the Interior, in consultation with the
6 Secretary of Energy and the Administrator of the
7 Environmental Protection Agency, shall report to
8 Congress on—

9 “(A) the findings and recommendations of
10 the study;

11 “(B) the agreement or disagreement of the
12 Secretary with each of the findings and rec-
13 ommendations of the study; and

14 “(C)(i) a plan and timeframe for imple-
15 menting the recommendations of the study
16 through regulations or otherwise; or

17 “(ii) if the Secretary declines to implement
18 a recommendation, the justification for declin-
19 ing to implement the recommendation.”;

20 (4) in subsection (g) (as redesignated by para-
21 graph (2))—

22 (A) by striking “Not later” and inserting
23 the following:

24 “(1) IN GENERAL.—Not later”;

1 (B) in the first sentence, by striking “of
 2 the final regulation required by subsection (d)”
 3 and inserting “of final regulations issued under
 4 this section (taking into account the findings
 5 and recommendations of the studies and reports
 6 required by subsections (e) and (f) and the re-
 7 sults of research and development carried out
 8 under leases entered into for that purpose)”;

9 (C) in the second sentence, by striking “If
 10 the Secretary finds sufficient support and inter-
 11 est exists in a State,” and inserting the fol-
 12 lowing:

13 “(2) LEASE SALE.—If the Secretary finds suffi-
 14 cient support and interest exists in a State and de-
 15 termines that the technology for the development of
 16 tar sands and oil shale resources is commercially
 17 and technically viable,”;

18 (D) in the third sentence, by striking “Evi-
 19 dence of” and inserting the following:

20 “(3) EVIDENCE OF INTEREST.—Evidence of”;
 21 and

22 (E) by adding at the end the following:

23 “(4) RECOMMENDATIONS OF STATES ON PRO-
 24 POSED LEASE SALES AND DEVELOPMENT AND PRO-
 25 Duction PLANS.—

1 “(A) IN GENERAL.—Any Governor of an
2 affected State or the executive of any affected
3 local government in the State may submit rec-
4 ommendations to the Secretary regarding the
5 size, timing, or location of a proposed lease sale
6 or with respect to a proposed development and
7 production plan.

8 “(B) FORWARDING LOCAL RECOMMENDA-
9 TIONS TO GOVERNOR.—Prior to submitting rec-
10 ommendations to the Secretary, the executive of
11 any affected local government in any affected
12 State shall forward the recommendations of the
13 executive to the Governor of the State.

14 “(C) DEADLINE.—The recommendations
15 shall be submitted not later than 60 days after
16 the date of notice of the proposed lease sale or
17 the date of receipt of the development and pro-
18 duction plan.

19 “(D) APPROVAL.—The Secretary shall ac-
20 cept the recommendations of the Governor, and
21 may accept the recommendations of the execu-
22 tive of any affected local government, if the
23 Secretary determines, after having provided an
24 opportunity for consultation, that the rec-
25 ommendations provide for a reasonable balance

1 between the national interest and the well-being
2 of the citizens of the affected State.

3 “(E) RATIONALE.—The Secretary shall
4 communicate to the Governor, in writing, the
5 reasons for the determination of the Gov-
6 ernor—

7 “(i) to accept or reject the rec-
8 ommendations of the Governor; or

9 “(ii) to implement any alternative
10 means, identified in consultation with the
11 Governor, to provide for a reasonable bal-
12 ance between the national interest and the
13 well-being of the citizens of the affected
14 State.

15 “(5) ENVIRONMENTAL COMPLIANCE.—An envi-
16 ronmental impact statement or similar analysis re-
17 quired under the National Environmental Policy Act
18 of 1969 (42 U.S.C. 4321 et seq.) shall be required—

19 “(A) prior to any lease sale with respect to
20 the land proposed to be leased under the com-
21 mercial leasing program established under this
22 subsection; and

23 “(B) on a site-specific basis prior to the
24 authorization of any development activity on
25 any leased land.”; and

- 1 (5) in subsection (i)(1)(B) (as redesignated by
- 2 paragraph (2)), by striking “subsection (e)” and in-
- 3 serting “subsection (g)”.

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